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**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

The Minutes

March 18, 2002

At 9:32 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Scotland, Presiding Justice; Davis, Associate Justice; Nicholson, Associate Justice; and Guzman, Bailiff. Calendar Called.

C035172 WALLIS v. STROHL

Cause called. Joanna R. Mendoza argued for appellant and submitted additional citations. Klaus J. Kolb argued for respondent. Cause submitted.

At 10:07 a.m., the court recessed. At 10:17 a.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Davis and Associate Justice Morrison.

C038023 SINGH v. U-SAVE RENTAL et al.

Cause called. Raj Singh argued for himself in pro per as appellant. Margaret Carew Toledo argued for respondent U-Save Rental. Norman C. Hile appeared only. Marvin K. Anderson appeared only. Cause submitted.

At 10:46 a.m., the court recessed. At 10:51 a.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Davis and Associate Justice Callahan.

C036932 THE PEOPLE v. POST

Cause called. Victor Blumenkrantz, court appointed counsel, argued for appellant. Michael Farrell, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:18 a.m., the court recessed. At 11:24 a.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Morrison and Associate Justice Kolkey.

**C035330 STOCKETT et al. v. ASSOCIATION OF CALIFORNIA WATER AGENCIES
C035469 JOINT POWERS INSURANCE AUTHORITY**

Cause called. Peter Abrahams argued for appellant/respondent. Marian M. Johnston argued for respondents/appellants. Cause submitted.

At 11:57 a.m., the court recessed. At 1:59 p.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Nicholson and Associate Justice Morrison.

C037670 TRACY TEPPANYAKI COMPANY v. SAVE MART SUPERMARKETS et al.

Cause called. Richard G. Hyppa argued for appellant. James D. Mayol argued for respondents. Cause submitted.

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At 2:25 p.m., the court recessed. At 2:29 p.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Davis and Associate Justice Nicholson.

C037760 THE PEOPLE v. BROWN

Cause called. Hilda Scheib, court appointed counsel, argued for appellant. Harry Joseph Colombo, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:58 p.m., the court recessed. At 3:02 p.m., the court reconvened with Acting Presiding Justice Davis, Associate Justice Nicholson and Associate Justice Morrison.

C037138 THE PEOPLE v. DANIELS

Cause called. Kyle Gee, court appointed counsel, argued for appellant. Harry Joseph Colombo, Deputy Attorney General, argued for respondent. Cause submitted.

At 3:41 p.m., the court recessed. At 3:46 p.m., the court reconvened with Acting Presiding Justice Davis, Associate Justice Nicholson and Associate Justice Kolkey.

C036023 THE PEOPLE v. SUY et al.

Cause called. Robert V. Vallandigham, Jr., court appointed counsel, argued for appellant Chhoeun. Hilda Sheib, court appointed counsel, argued for appellant Suy. Harry Joseph Colombo, Deputy Attorney General, argued for respondent. Cause submitted.

At 4:36 p.m., the court recessed until 9:30 a.m., Tuesday, March 19, 2002.

C033122 THE PEOPLE v. ADAMS

(Not for Publication)

The judgment is affirmed.

DAVIS, J.

We concur: Scotland, P.J.
 Morrison, J.

C035158 THE PEOPLE v. SAMAD

(Not for Publication)

The judgment is affirmed.

HULL, J.

We concur: Sims, Acting P.J.
 Morrison, J.

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At 9:33 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Nicholson, Acting Presiding Justice; Raye, Associate Justice; Callahan, Associate Justice; and Facey, Bailiff. Calendar Called.

C035000 VAN IDERSTINE v. CORBIN etc., et al.

Cause called. James Todd Bennett argued for appellant. Bruce S. Alpert, County Counsel, argued for respondents. Cause submitted.

At 10:08 a.m., the court recessed until 9:30 a.m., Wednesday, March 20, 2002.

C037741 THE PEOPLE v. ARPAD (Not for Publication)

The judgment is affirmed.

CALLAHAN, J.

We concur: Sims, Acting P.J.
 Kolkey, J.

C038395 THE PEOPLE v. CAVINESS (Not for Publication)

The judgment is affirmed.

ROBIE, J.

We concur: Blease, Acting P.J.
 Raye, J.

**C038896 In re WILLIAM R.; EL DORADO COUNTY DEPARTMENT OF SOCIAL
SERVICES v. DONALD R. et al. (Not for Publication)**

The order of the juvenile court terminating parental rights is vacated, and the matter is remanded to the juvenile court with directions to conduct further inquiry regarding appellants' Indian ancestry. If, after proper inquiry, there is sufficient information to cause the juvenile court to believe that the minor may be an Indian child, the juvenile court is ordered to direct that notice be provided in compliance with the Act. If a tribe determines the minor is an Indian child, or if other information is presented to the juvenile court that suggests the minor is an Indian child, as defined by the Act, the juvenile court is ordered to conduct a new section 366.26 hearing in conformity with all provisions of the Act. If the juvenile court determines, after proper inquiry, that there is no basis for providing notice under the Act, or if notice under the Act is ordered and properly served and no response is received from a tribe indicating that the minor is an Indian child, all previous findings and orders shall be reinstated.

In all other respects, the orders are affirmed.

HULL, J.

We concur: Blease, Acting P.J.
 Robie, J.

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March 19, 2002, continued

C039302 **In re RAYMOND E.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH
AND HUMAN SERVICES v. MICHELLE R. et al.**

(Not for Publication)

The order of the juvenile court terminating the parental rights of appellants is affirmed.

DAVIS, J.

We concur: Scotland, P.J.

Robie, J.

C040261 **HARRIS v. GOURLEY**

BY THE COURT:

Appellant's motion to reinstate the appeal is granted. The order of February 20, 2002, dismissing the appeal is vacated, and the appeal is reinstated...The trial court clerk is authorized to accept the designation and proceed in accordance with the rules.

SCOTLAND, P.J.

March 20, 2002

At 9:31 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Scotland, Presiding Justice; Blease, Associate Justice; Morrison, Associate Justice; and Facey, Bailiff. Calendar Called.

C031435 **LUGO et al. v. ALLSTATE INSURANCE COMPANY**

C031832 Cause called. George G. Weickhardt argued for appellant. Andrew N. Chang argued for respondents. Paul Burdick appeared only. Cause submitted.

At 10:31 a.m., the court recessed. At 2:05 p.m., the court reconvened with Acting Presiding Justice Sims, and Associate Justice Morrison. Associate Justice Nicholson was not present.

C033974 **THE PEOPLE v. WEISEL**

Cause called. All counsel orally stipulated that Justice Nicholson could participate by cassette tape. Geri Green, court appointed counsel, argued for appellant. No appearance was made on behalf of respondent as argument was previously waived and approved.

At 2:35 p.m., the court recessed until 9:30 a.m., Friday, March 22, 2002.

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March 20, 2002, continued

- C034676 THE PEOPLE v. LAMPKIN, JR. (Not for Publication)**
The matter is remanded to the trial court with directions to resentence defendant with respect to the determinate terms in a manner consistent with this opinion. In all other respects, defendant's convictions and sentencing are affirmed.
NICHOLSON, J.
We concur: Scotland, P.J.
 Morrison, J.
- C035180 THE PEOPLE v. LARRY CARRASCO**
C035936 THE PEOPLE v. BARBARA CARRASCO (Not for Publication)
The judgments against defendants Larry Carrasco and Barbara Carrasco are affirmed in their entirety.
NICHOLSON, J.
I concur: Scotland, P.J.
I fully concur in the opinion with the exception of Part II of Barbara Carrasco's appeal, to which I concur in the result.
Hull, J.
- C038080 THE PEOPLE v. SYKES (Not for Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We concur: Raye, J.
 Morrison, J.
- C016270 VANG et al. v. SAENZ and VENEMAN (Not for Publication)**
The judgment is reversed and the matter remanded to the trial court with directions to enter judgment denying relief on plaintiffs' complaint for administrative and traditional mandamus. The parties shall bear their own costs on appeal.
HULL, J.
I concur: Sims, J.
I concur in the result...
Blease, Acting P.J.
- C034571 CULBREATH v. DEPARTMENT OF WATER RESOURCES**
C034696 (Not for Publication)
The judgment is affirmed. The Department shall recover costs on appeal.
RAYE, Acting P.J.
We concur: Callahan, J.
 Hull, J.

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C037909 BRIZUELA v. OGREN-BRIZUELA (Not for Publication)

The judgment is affirmed.

NICHOLSON, J.

We concur: Blease, Acting P.J.

Sims, J.

C034939 THE PEOPLE v. HUNTER

BY THE COURT:

Appellant's petition for rehearing is granted as to penalty assessments only.

The decision filed on February 28, 2002, is vacated.

MORRISON, Acting P.J.

March 21, 2002

C036700 THE PEOPLE v. PEMBERTON (Not for Publication)
C037010

The judgment is affirmed.

CALLAHAN, J.

We concur: Scotland, P.J.

Sims, J.

C036702 THE PEOPLE v. GOODMAN (Not for Publication)

The judgment is affirmed.

SCOTLAND, P.J.

We concur: Sims, J.

Kolkey, J.

C036995 THE PEOPLE v. JOHNSON (Not for Publication)

The judgment is modified to strike the five-year enhancement imposed for defendant's 1987 conviction for violation of section 211 in Sacramento County Superior Court case No. 75446. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract and to forward a certified copy of the amended abstract to the Department of Corrections.

ROBIE, J.

We concur: Blease, Acting P.J.

Hull, J.

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- C037676 THE PEOPLE v. DODGION (Not for Publication)**
The judgment is reversed and the matter remanded to the trial court. If the People so elect within 10 days of the filing of the remittitur, they may file a petition alleging specific violations of defendant's probation in case No. TF027394A that were committed after the plea agreement was entered in case No. TM100189A. The matter shall then proceed to a hearing at which the trial court shall determine whether to sustain the allegations and, based on that determination, whether to modify defendant's sentence in case No. TM100189A to a grant of probation.
- If the People do not file a petition as described above, the trial court shall modify defendant's sentence to a grant of probation in accordance with the terms of the plea agreement in case No. TM100189A, provided that defendant accepts the relevant terms and conditions of probation.
- BLEASE, Acting P.J.
- We concur: Morrison, J.
 Hull, J.
- C038129 THE PEOPLE v. WASIKOWSKI (Not for Publication)**
The judgment is modified to stay the sentence on count fifteen (assault with a firearm on Glass) pursuant to section 654. The trial court shall prepare an amended abstract of judgment reflecting this modification and forward it to the Department of Corrections. As modified, the judgment is affirmed.
- ROBIE, J.
- We concur: Scotland, P.J.
 Davis, J.
- C038548 THE PEOPLE v. HUFFMAN (Not for Publication)**
The judgment is affirmed.
- ROBIE, J.
- We concur: Scotland, P.J.
 Davis, J.
- C038972 THE PEOPLE v. ACEVEDO, JR. (Not for Publication)**
The judgment is affirmed.
- SCOTLAND, P.J.
- We concur: Davis, J.
 Robie, J.

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March 21, 2002, continued

- C026448 HASSAN v. MERCY AMERICAN RIVER HOSPITAL**
(Certified for Publication)
The judgment is affirmed. Respondent will recover its costs on appeal.
BLEASE, Acting P.J.
I concur: Morrison, J.
Although I respect their considerable experience when it comes to the task of statutory interpretation, I must, in part, disagree with my two colleagues in this matter, because they misinterpret the meaning of Civil Code section 43.8 (all further undesignated section references are to the Civil Code) after its amendment in 1990. I concur in the result...
Hull, J.
- C035433 ARNAIZ, LTD. v. COUNTY OF SAN JOAQUIN**
(Certified for Publication)
The appeal having been taken from a nonappealable order, the appeal is dismissed. Having treated this appeal as a petition for a writ of mandate, we deny the petition. Arnaiz shall recover costs on appeal. (CERTIFIED FOR PUBLICATION.)
MORRISON, J.
I concur: Sims, Acting P.J.
I concur:... Hull, J.
- C037524 BASU v. NORTH STATE TITLE COMPANY**
(Not for Publication)
The judgment is affirmed. North State shall recover its costs on appeal.
RAYE, J.
We concur: Blease, Acting P.J.
Morrison, J.
- C038498 MELOHN v. GRAND VALLEY FRAMING, INC.**
(Not for Publication)
The judgment is reversed. Grand Valley shall reimburse plaintiff for his costs on appeal. (Cal. Rules of Court, rule 26 (a).)
SCOTLAND, P.J.
We concur: Sims, J.
Kolkey, J.

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March 22, 2002

At 9:31 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Blease, Acting Presiding Justice; Hull, Associate Justice; Kolkey, Associate Justice; and Facey, Bailiff. Calendar Called.

C037764 In re JUAN ANDRES VERDIN on Habeas Corpus

Cause called. Michael Farrell, Deputy Attorney General, argued for appellant. Norton Tooby, court appointed counsel, argued for respondent. Cause submitted.

At 10:00 a.m., the court recessed. At 10:04 a.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Callahan and Associate Justice Hull.

C037965 BAGATTI v. CALIFORNIA DEPARTMENT OF REHABILITATION et al.

Cause called. John R. Hargreaves argued for appellant. A. Kay Lauterbach, Deputy Attorney General, argued for respondents. Cause submitted.

At 10:38 a.m., the court recessed until 9:30 a.m., Monday, March 25, 2002.

C036087 THE PEOPLE v. GILBERT (Not for Publication)

The matter is remanded to the trial court with directions to strike one of defendant's LWOP terms. In addition, the judgment is modified to reflect no imposition of a \$10,000 parole revocation fine under section 1202.45. The trial court is ordered to correct the abstract of judgment and the minute order to conform to the oral pronouncement of judgment, and to forward a certified copy of the amended abstract of judgment to the Department of Corrections. In all other respects, defendant's convictions and sentencing are affirmed.

MORRISON, J.

We concur: Blease, Acting P.J.
 Raye, J.

C037315 THE PEOPLE v. TURNER (Certified for Publication)

The judgment is modified by imposing a \$50 laboratory analysis fee pursuant to Health and Safety Code section 11372.5, a \$50 penalty assessment pursuant to Penal Code section 1464, and a \$35 penalty assessment pursuant to Government Code section 76000. As modified, the judgment is affirmed. The trial court shall prepare an amended abstract of judgment showing the modifications and shall forward a certified copy of the same to the Department of Corrections.

SIMS, Acting P.J.

We concur: Morrison, J.
 Hull, J.

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March 22, 2002, continued

(Not for Publication)

CALLAHAN, J.

Sims, Acting P.J.

Morrison, J.

In re NICOLE H.; HUMAN SERVICES AGENCY v. GAIL S.

(Not for Publication)

The orders of the juvenile court denying appellant's petition for modification and terminating appellant's parental rights are affirmed.

MORRISON, J.

Scotland, P.J.

Sims, J.